

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
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**FISCAL IMPACT STATEMENT**

**LS 7952**

**BILL NUMBER:** HB 1738

**DATE PREPARED:** Feb 26, 1999

**BILL AMENDED:** Feb 24, 1999

**SUBJECT:** Arrest and detention.

**FISCAL ANALYST:** Mark Bucherl

**PHONE NUMBER:** 232-9869

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill provides that if a person is arrested for allegedly committing a forcible felony or a misdemeanor that results in bodily injury to another person and the victim of the felony or misdemeanor: (1) is an emancipated minor or a person who is at least 16 years of age; and (2) is or was a spouse of, is or was living as if a spouse of, is related by blood or marriage to, has at least one child in common with, or resides or has resided in the same residence as the person who allegedly committed the felony or misdemeanor, the person who allegedly committed the felony or misdemeanor must be detained in the custody of a law enforcement agency for 24 hours. It allows the person to be detained for more than 24 hours but not more than 48 hours if the end of the 24 hour period falls on a Sunday. It also provides that a person who commits or attempts to commit certain criminal offenses while the person who commits the offense knew the act would be committed in the presence of a child commits domestic violence in the presence of a child as either a Class A misdemeanor or a Class D felony.

**Effective Date:** July 1, 1999.

**Explanation of State Expenditures:** (Revised) This bill creates a new Class D felony, punishable by a prison term ranging from 6 months to 3 years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$20,500 in FY 97. Individual facility expenditures range from \$11,000 to \$27,000. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually or \$5 daily per prisoner. The average length of stay in DOC facilities for all Class D felony offenders is approximately seven months.

**Explanation of State Revenues:** (Revised) If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund could increase. The maximum fine for a Class D felony is \$10,000. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, county or municipal court (courts of

record), 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

**Explanation of Local Expenditures:** (Revised) The provision requiring housing prisoners for a mandatory minimum of 24 hours may increase costs. Current practice is to release a prisoner for a court hearing at the earliest practicable time or as soon as a bail bond is posted.

If more defendants are detained in county jails prior to their felony court hearings or for Class A misdemeanor convictions, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

**Explanation of Local Revenues:** (Revised) If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed, and if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed, and if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Indiana Sheriffs Association, Department of Correction.